

consistent with the terms of the assignment to perform specific representational or advisory duties. A judge advocate shall inform clients at the earliest opportunity of any limitations of representation and professional responsibilities of the judge advocate towards the client.

(3) A judge advocate shall follow the client's well-informed and lawful decisions concerning case objectives, choice of counsel, forum, pleas, whether to testify, and settlements.

(4) A judge advocate's representation of a client does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(5) A judge advocate shall not counsel or assist a client to engage in conduct that the judge advocate knows is criminal or fraudulent, but a judge advocate may discuss the legal and moral consequences of any proposed course of conduct with a client, and may counsel or assist a client in making a good faith effort to determine the validity, scope, meaning, or application of the law.

(b) [Reserved]

§ 776.22 **Diligence.**

(a) *Diligence.* A judge advocate shall act with reasonable diligence and promptness in representing a client, and in every case shall consult with a client as soon as practicable and as often as necessary upon being assigned to the case or issue.

(b) [Reserved]

§ 776.23 **Communication.**

(a) *Communication.* (1) A judge advocate shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(2) A judge advocate shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(b) [Reserved]

§ 776.24 **Fees.**

In this section, the term "judge advocate" refers only to judge advocates and other attorneys employed by the Department of the Navy. The term

"lawyer" refers to all other lawyers subject to this subpart B.

(a) *Fees.* (1) A judge advocate shall not accept any salary, fee, compensation, or other payments or benefits, directly or indirectly, other than government compensation, for services provided in the course of the judge advocate's government duties or employment.

(2) A judge advocate shall not accept any salary or other payments as compensation for legal services rendered, by that judge advocate in a private capacity, to a client who is eligible for assistance under the Department of the Navy Legal Assistance Program, unless so authorized by the Judge Advocate General. This paragraph (a)(2) does not apply to Reserve judge advocates not serving on extended active duty.

(3) A Reserve judge advocate, whether or not serving on extended active duty, who has initially represented or interviewed a client or prospective client concerning a matter as part of the judge advocate's official Navy or Marine Corps duties, shall not accept any salary or other payments as compensation for services rendered to that client in a private capacity concerning the same general matter for which the client was seen in an official capacity, unless authorized by the Judge Advocate General to do so.

(4) A judge advocate shall not accept any payments or benefits, actual or constructive, directly or indirectly, for making a referral of a client.

(5) Lawyers not employed by the Federal Government may charge fees. Fees shall be reasonable. Factors considered in determining the reasonableness of a fee include the following:

(i) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(ii) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(iii) The fee customarily charged in the locality for similar legal services;

(iv) The amount involved and the results obtained;

(v) The time limitations imposed by the client or by the circumstances;

(vi) The nature and length of the professional relationship with the client;

(vii) The experience, reputation, and ability of the lawyer or lawyers performing the services; and

(viii) Whether the fee is fixed or contingent.

(6) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing in representation.

(7) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (a)(8) of this section or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(8) A lawyer shall not enter into an arrangement for, charge, or collect:

(i) Any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof, or

(ii) A contingent fee for representing an accused in a criminal case.

(9) A division of fee between lawyers who are not in the same firm may be made only if:

(i) The division is in proportion to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation;

(ii) The client is advised of and does not object to the participation of all the lawyers involved; and

(iii) The total fee is reasonable.

(b) [Reserved]

§ 776.25 Confidentiality of information.

(a) *Confidentiality of information.* (1) A judge advocate shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (a)(2) and (a)(3) of this section.

(2) A judge advocate shall reveal such information to the extent the judge advocate reasonably believes necessary to prevent the client from committing a criminal act that the judge advocate believes is likely to result in imminent death or substantial bodily harm, or significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system.

(3) A judge advocate may reveal such information to the extent the judge advocate reasonably believes necessary to establish a claim or defense on behalf of the judge advocate in a controversy between the judge advocate and the client, to establish a defense to a criminal charge or civil claim against the judge advocate based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the judge advocate's representation of the client.

(b) [Reserved]

§ 776.26 Conflict of interests: General rule.

(a) *Conflict of Interests: General rule.*

(1) A judge advocate shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(i) The judge advocate reasonably believes the representation will not adversely affect the relationship with the other client; and

(ii) Each client consents after consultation.

(2) A judge advocate shall not represent a client if the representation of that client may be materially limited by the judge advocate's responsibilities to another client or to a third person, or by the judge advocate's own interests, unless:

(i) The judge advocate reasonably believes the representation will not be adversely affected; and,